

AMENDED IN SENATE MAY 24, 2012

AMENDED IN SENATE APRIL 9, 2012

SENATE BILL

No. 1182

Introduced by Senator Leno

February 22, 2012

An act to amend Section 11362.765 of the Health and Safety Code, relating to medical marijuana.

LEGISLATIVE COUNSEL'S DIGEST

SB 1182, as amended, Leno. Medical marijuana.

Existing law, the Compassionate Use Act of 1996, provides that a patient or a patient's primary caregiver who possesses or cultivates marijuana for personal medical purposes of the patient upon the written or oral recommendation or approval of a physician is not subject to conviction for offenses relating to possession and cultivation of marijuana.

Existing law also makes it a crime to possess for sale, plant, cultivate, harvest, dry process, transport, import into this state, sell, furnish, administer, or give away, to offer to transport, import into this state, sell, furnish, administer, or give away, or to attempt to import into this state or transport, any marijuana. Existing law makes it a felony or misdemeanor to open or maintain any place for the purpose of unlawfully selling, giving away, or using, or to knowingly rent, lease, or make available for use a building, room, space, or enclosure for the purpose of unlawfully manufacturing, storing, or distributing any controlled substance for sale or distribution. Existing law further provides that every building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, or giving away any controlled substance, and every building or place wherein or upon which

those acts take place, is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered.

Existing law requires the Attorney General to develop and adopt appropriate guidelines to ensure the security and nondiversion of marijuana grown for medical use by patients qualified under the Compassionate Use Act of 1996, and the Attorney General has published guidelines regarding collectives and cooperatives organized and operated to cultivate and distribute marijuana for medical purposes.

This bill would exempt from the criminal acts and abatement of nuisance provisions described above collectives, *and* cooperatives, ~~and other business entities that are organized and operated in compliance with the guidelines published by the Attorney General, and the officers, members, and employees of those collectives, cooperatives, and other business entities, as defined.~~ The bill would also exempt those entities and persons from criminal prosecution or punishment solely on the basis of the fact that they receive compensation for actual expenses incurred in carrying out activities that are in compliance with those guidelines.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11362.765 of the Health and Safety Code
- 2 is amended to read:
- 3 11362.765. (a) Subject to the requirements of this article, the
- 4 individuals specified in subdivision (b) shall not be subject, on
- 5 that sole basis, to criminal liability under Section 11357, 11358,
- 6 11359, 11360, 11366, 11366.5, or 11570. However, nothing in
- 7 this section shall authorize the individual to smoke or otherwise
- 8 consume marijuana unless otherwise authorized by this article,
- 9 nor shall anything in this section authorize any individual or group
- 10 to cultivate or distribute marijuana for profit.
- 11 (b) Subdivision (a) shall apply to all of the following:
- 12 (1) A qualified patient or a person with an identification card
- 13 who transports or processes marijuana for his or her own personal
- 14 medical use.
- 15 (2) A designated primary caregiver who transports, processes,
- 16 administers, delivers, or gives away marijuana for medical
- 17 purposes, in amounts not exceeding those established in subdivision

1 (a) of Section 11362.77, only to the qualified patient of the primary
2 caregiver, or to the person with an identification card who has
3 designated the individual as a primary caregiver.

4 (3) Any individual who provides assistance to a qualified patient
5 or a person with an identification card, or his or her designated
6 primary caregiver, in administering medical marijuana to the
7 qualified patient or person or acquiring the skills necessary to
8 cultivate or administer marijuana for medical purposes to the
9 qualified patient or person.

10 (4) ~~Collectives; and cooperatives, and other business entities~~
11 ~~that are organized and operated in compliance with paragraphs A~~
12 ~~and B of Section IV of the Guidelines For The Security And~~
13 ~~Non-Diversion Of Marijuana Grown For Medical Use issued by~~
14 ~~the Attorney General in August 2008, pursuant to Section~~
15 ~~11362.81, and the officers, members, and employees of those~~
16 ~~collectives, cooperatives, and other business entities.~~

17 (c) ~~Collectives; and cooperatives, and other business entities~~
18 ~~that are organized and operated in compliance with paragraphs A~~
19 ~~and B of Section IV of the Guidelines For The Security And~~
20 ~~Non-Diversion Of Marijuana Grown for Medical Use issued by~~
21 ~~the Attorney General in August 2008, pursuant to Section~~
22 ~~11362.81, and the officers, members, and employees of those~~
23 ~~collectives, cooperatives, and other business entities, who that~~
24 ~~receive compensation for actual expenses incurred in carrying out~~
25 ~~activities that are in compliance with those the guidelines~~
26 ~~referenced in subdivision (e), including reasonable compensation~~
27 ~~incurred for services provided to the members or the organization,~~
28 ~~shall not be subject to prosecution or punishment under Section~~
29 ~~11359 or 11360 solely on the basis of the fact that those entities~~
30 ~~or persons receive compensation as described in this subdivision.~~

31 (d) A primary caregiver who receives compensation for actual
32 expenses, including reasonable compensation incurred for services
33 provided to an eligible qualified patient or person with an
34 identification card to enable that person to use marijuana under
35 this article, or for payment for out-of-pocket expenses incurred in
36 providing those services, or both, shall not, on the sole basis of
37 that fact, be subject to prosecution or punishment under Section
38 11359 or 11360.

39 (e) (1) *For purposes of this section, “collectives and*
40 *cooperatives” means a collective or cooperative that operates*

1 *within the terms of the Compassionate Use Act of 1996 (Section*
2 *11362.5) and this article and that is organized and operated in*
3 *compliance with paragraphs A and B of Section IV of the*
4 *Guidelines for the Security and Non-Diversion of Marijuana Grown*
5 *for Medical Use, issued by the Attorney General in August 2008,*
6 *pursuant to Section 11362.81. For purposes of this section*
7 *“collectives and cooperatives” includes the officers, members,*
8 *and employees of the collectives and cooperatives.*
9 (2) *For purposes of this section, a collective may be organized*
10 *as any statutory business entity permitted under California law.*